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 dba CIB FUNDING

7
 8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 * * *

11 LOWELL LABERTEW, an individual; and) **CASE NO. 07CV2092W (LSP)**
 12 SANDRA LABERTEW, an individual,) *Complaint filed 10/31/07*
 13 Plaintiffs,) *Trial Date: Not Set*
 14 vs.)
 15 C&R FINANCIAL INC., an entity of unknown)
 form; GOLDEN EMPIRE MORTGAGE, INC.,)
 16 dba CIB FUNDING, a California Corporation;) **[DEMAND FOR JURY TRAIL]**
 17 RAYMOND JACOB ROSKOWICZ, an)
 individual; RICK WILKES, an individual;)
 BEVERLEE WILKES, an individual; and)
 DOES 1-10, inclusive,)
 18 Defendants.)
 19 _____)

20 COMES NOW defendant, GOLDEN EMPIRE MORTGAGE, INC., a California
 21 Corporation doing business as CIB FUNDING, appearing for itself and no others, and in answer
 22 to plaintiffs' First Amended Complaint on file herein, admits, denies, and alleges as follows:

23 ADMISSIONS AND DENIALS

24 Answering Paragraph 1 of the First Amended Complaint, this answering defendant denies
 25 each and every allegation contained therein applicable to this answering defendant.

26 Answering Paragraph 2 of the First Amended Complaint, this answering defendant admits
 27 each and every allegation contained therein.

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1 Answering Paragraph 3 of the First Amended Complaint, this answering defendant is
2 without knowledge or information sufficient to form a belief as to the truth of the allegations
3 contained in said paragraph, and on that basis, denies each and every allegation contained therein.

4 Answering Paragraph 4 of the First Amended Complaint, this answering defendant admits
5 each and every allegation contained in lines 20 through 27 of page 4 and admits that it employed
6 defendant, RAYMOND JACOB ROSZKOWICZ, but is without knowledge or information
7 sufficient to form a belief as to the truth of the allegations regarding the holding of the real estate
8 salesperson license of defendant, RAYMOND JACOB ROSZKOWICZ, at any given time.

9 Answering Paragraph 5 of the First Amended Complaint, this answering defendant is
10 without knowledge or information sufficient to form a belief as to the truth of the allegations
11 contained in said paragraph, and on that basis, denies each and every allegation contained therein.

12 Answering Paragraph 6 of the First Amended Complaint, this answering defendant is
13 without knowledge or information sufficient to form a belief as to the truth of the allegations
14 contained in said paragraph, and on that basis, denies each and every allegation contained therein.

15 Answering Paragraph 7 of the First Amended Complaint, this answering defendant is
16 without knowledge or information sufficient to form a belief as to the truth of the allegations
17 contained in said paragraph, and on that basis, denies each and every allegation contained therein.

18 Answering Paragraph 8 of the First Amended Complaint, this answering defendant is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations
20 contained in said paragraph, and on that basis, denies each and every allegation contained therein.

21 Answering Paragraph 9 of the First Amended Complaint, this answering defendant denies
22 that it acted in such capacity on behalf of any other defendant, or that any other defendant acted in
23 such capacity on this answering defendant's behalf. This answering defendant specifically denies
24 that defendant, RAYMOND JACOB ROSZKOWICZ, was acting in such capacity for this
25 answering defendant.

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1 Answering Paragraphs 11 through 18 of the First Amended Complaint, this answering
2 defendant denies that it undertook, or omitted to take, the actions alleged therein, either
3 independently or in connection with any other defendant. As to the remainder of the allegations of
4 this paragraph, this answering defendant is without knowledge or information sufficient to form a
5 belief as to the truth of the allegations contained in said paragraph, and on that basis, denies such
6 allegations contained therein.

7 Answering Paragraphs 39 through 46 of the Fourth Cause of Action of the First Amended
8 Complaint, this answering defendant denies that it undertook, or omitted to take, the actions
9 alleged therein, either independently or in connection with any other defendant. As to the
10 remainder of the allegations of this paragraph, this answering defendant is without knowledge or
11 information sufficient to form a belief as to the truth of the allegations contained in said paragraph,
12 and on that basis, denies such allegations contained therein.

13 Answering Paragraphs 47 through 50 of the Fifth Cause of Action of the First Amended
14 Complaint, this answering defendant denies that it undertook, or omitted to take, the actions
15 alleged therein, either independently or in connection with any other defendant. As to the
16 remainder of the allegations of this paragraph, this answering defendant is without knowledge or
17 information sufficient to form a belief as to the truth of the allegations contained in said paragraph,
18 and on that basis, denies such allegations contained therein.

19 AFFIRMATIVE DEFENSES

20 AS AND FOR A FIRST AFFIRMATIVE DEFENSE to each and every alleged cause of
21 action, this answering defendant alleges that plaintiffsø First Amended Complaint, and each cause
22 of action therein contained, fails to state facts sufficient to constitute a cause of action as against
23 this answering defendant.

24 AS AND FOR A SECOND AFFIRMATIVE DEFENSE to each and every alleged cause
25 of action, this answering defendant alleges defendant acted in good faith in all matters and things
26 alleged in the First Amended Complaint so as to bar or reduce recovery herein.

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1 AS AND FOR A THIRD AFFIRMATIVE DEFENSE to each and every alleged cause of
2 action, this answering defendant alleges plaintiffs, and each of them, consented to the matters and
3 things alleged in the First Amended Complaint as a matter of informed consent and are barred by
4 the doctrine of consent.

5 AS AND FOR A FOURTH AFFIRMATIVE DEFENSE to each and every cause of action
6 herein, this answering defendant alleges that with reference to the matters set forth in the First
7 Amended Complaint herein, the hands of the plaintiffs, and each of them, are unclean so as to bar
8 or reduce recovery herein.

9 AS AND FOR A FIFTH AFFIRMATIVE DEFENSE to each and every alleged cause of
10 action, this answering defendant alleges that plaintiffs' First Amended Complaint, and each alleged
11 cause of action therein, is barred by the applicable statute of limitations.

12 AS AND FOR A SIXTH AFFIRMATIVE DEFENSE to each and every alleged cause of
13 action, this answering defendant alleges that plaintiffs failed to perform satisfactorily under the
14 agreements alleged in the First Amended Complaint.

15 AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE to each and every alleged cause
16 of action, this answering defendant alleges there was a failure of consideration under the
17 agreements alleged in the First Amended Complaint.

18 AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE to each and every alleged cause
19 of action, these answering defendants allege that this defendant's acts or omissions, if any, in
20 reference to the matters and things alleged in the First Amended Complaint, were unintentional
21 so as to bar or reduce recovery herein.

22 AS AND FOR A NINTH AFFIRMATIVE DEFENSE to each and every alleged cause of
23 action, this answering defendant alleges that plaintiffs herein failed to mitigate their damages so
24 as to bar or reduce recovery herein.

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1 AS AND FOR A TENTH AFFIRMATIVE DEFENSE to each and every alleged cause of
 2 action, this answering defendant alleges that if, and to the extent that this answering defendant
 3 may be entitled to further defenses of which they are presently unaware, and this answering defendant
 4 reserves the right to amend this Answer to plead such additional and further affirmative defense as such legal issues become apparent to the defenses become known.

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 6 WHEREFORE, this answering defendant prays for judgment in its favor, for costs and
 7 fees incurred in defending this suit and for such other and further relief as the Court may deem
 8 just and proper.

9 DATED: February 4, 2008

10 CLIFFORD & BROWN

11
 12 By /s/ JEREMY J. SCHROEDER
 13 ARNOLD J. ANCHORDOQUY, ESQ.
 14 JEREMY J. SCHROEDER, ESQ.
 15 Attorneys for Defendant,
 16 GOLDEN EMPIRE MORTGAGE, INC., dba
 17 CIB FUNDING

18 **DEMAND FOR FURY TRIAL**

19 Defendant, GOLDEN EMPIRE MORTGAGE, INC., a California Corporation doing
 20 business as CIB FUNDING, hereby demands a jury trial pursuant to *Federal Rules of Civil
 21 Procedure, Rule 38(a)*.

22 DATED: February 4, 2008

23 CLIFFORD & BROWN

24
 25 By /s/ JEREMY J. SCHROEDER
 26 ARNOLD J. ANCHORDOQUY, ESQ.
 27 JEREMY J. SCHROEDER, ESQ.
 28 Attorneys for Defendant,
 29 GOLDEN EMPIRE MORTGAGE, INC., dba
 30 CIB FUNDING